

**FLATHEAD COUNTY PLANNING BOARD  
MINUTES OF THE MEETING  
MARCH 12, 2008**

**CALL TO  
ORDER**

A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Rita Hall, Marie Hickey-AuClaire, Marc Pitman, Mike Mower, Gordon Cross, Gene Dziza, Frank DeKort and Jim Heim. Andrew Hagemeyer, Alex Hogle, Dianna Broadie and Jeff Harris represented the Flathead County Planning & Zoning Office.

There were approximately 12 people in the audience.

**APPROVAL OF  
MINUTES**

Dziza made a motion seconded by Pitman to approve the January 13, 2008 meeting minutes.

The motion was carried by quorum.

**PUBLIC  
COMMENT  
*(not related to  
agenda items)***

None.

**PRELIMINARY  
PLAT/  
EAGLE VIEW  
RANCH II  
*(FPP 07-41)***

A request by Stillwater 42 LLC, for Preliminary Plat approval of Eagle View Ranch II, s five lot single-family residential subdivision on 21.10 acres. Lots in the subdivision are proposed to have individual water and septic systems. The property is located on the west side of the intersection of Eagle View Ranch Road and Highway 93 West.

**STAFF REPORT**

Alex Hogle reviewed Staff Report FPP 07-41 for the Board.

**BOARD  
QUESTIONS**

None.

**APPLICANT  
PRESENTATION**

None.

**PUBLIC  
COMMENT**

None.

**APPLICANT  
REBUTTAL**

Narda Wilson, 184 Midway Drive, appreciated the Board's careful consideration of the file. She is hopeful the Board will recommend approval for the Commissioners.

**STAFF  
REBUTTAL**

None.

**BOARD  
DISCUSSION**

Cross asked about the high groundwater.

Wilson said there were test holes dug and because of the variability in the soils all of the systems will be above ground.

**MOTION TO  
ADOPT F.O.F.**

Dziza made a motion, seconded by DeKort to adopt Staff Report FPP 07-41 as findings of fact.

**BOARD  
DISCUSSION**

Cross said the first subdivision was reviewed as a minor and the current proposal was reviewed as a major.

Hogle said that is correct. He said it is at no fault to the applicant that the original subdivision had administrative errors. Hogle reviewed how the first subdivision was created.

Cross said the first subdivision should have had a full review.

Hogle said that is correct.

**ROLL CALL TO  
ADOPT F.O.F.**

On a roll call vote the motion passed unanimously.

**MOTION TO  
RECOMMEND  
APPROVAL**

Dziza made a motion seconded by DeKort to recommend approval of FPP 07-41.

**MOTION TO  
ADOPT NEW  
UNIQUE  
CONDITIONS**

Dziza made a motion seconded by DeKort to adopt the new unique conditions.

**SUBSEQUENT  
MOTION**

Cross made a motion seconded by Dziza to amend the motion to adopt the new conditions.

*The applicant shall provide an appraisal of 0.49 acres of comparably representative unimproved land from a Certified General Appraiser, dated no more than six months prior to final plat application submittal, to set the baseline value of the parkland cash donation. The Planning & Zoning Office shall determine the actual parkland donation based on the baseline appraisal at that time. Proof shall be provided that the cash donation has been paid to Flathead County at the time of final plat*

*application. [Section 4.7.25(f), FCSR]*

**ROLL CALL  
FOR  
SUBSEQUENT  
MOTION**

On a roll call vote the motion passed unanimously.

**ROLL CALL TO  
ADOPT THE  
UNIQUE  
CONDITIONS**

On a roll call vote the motion passed unanimously.

**MAIN MOTION  
ROLL CALL TO  
APPROVE**

On a roll call vote the motion passed unanimously.

**PRELIMINARY  
PLAT/ AMD  
PLAT OF AMD  
PLAT 13,  
MOUNTAIN  
VIEW**

A request by Dale and Cinnamon Hall, for Preliminary Plat approval of the Amended Plat of Lot 3, Mountain View Lot 13, Block 1, a 3 lot single-family residential subdivision on 2.375 acres. Lots in the subdivision are proposed to have public water and sewer systems. The property is located at 427 Maple Drive.

**STAFF REPORT**

Diana Broadie reviewed Staff Report FPP 07-37 for the Board.

**BOARD  
QUESTIONS**

Mower asked why the floodplain maps were relevant.

Broadie said it would give the applicant a larger building space.

Pitman asked about typos on paragraph D.

Broadie said she would make the corrections.

The Board discussed the floodplain.

Mower asked about the findings.

Broadie explained where the floodplain is.

**APPLICANT  
PRESENTATION**

Erica Wirtala, Sands Surveying, agrees with the Staff Report. She said the original Staff Report mentioned they were exempt from parkland, but the updated Staff Report states parkland is required. The dollar amount is derived by determining the fair market value of the property. The land value is based on unimproved land. She wanted to clarify the parks department

has specific things they have to spend the money on. The applicant asked for a variance on the subdivision. The location of the floodplain and Spring Creek are the reason the variance is requested. The property straddles a RSID district. They are requesting a 40 foot right-of-way instead of 60 feet. She said the variance will not affect off-street parking. Anything within 100 feet of the floodplain requires a LOMA. She explained the difference between LOMA and LOMR. The applicant will be required to state, on the final plat, that the property is in the 100 year floodplain.

Cross said the DNRC said PBS&J discredits the map for public use.

Wirtala said they are a national based company. The opinion came from the PBS&J national office. It is confusing.

Pitman said there was some concern about the data.

Wirtala said the DNRC stated to get a LOMA and “nail down the problem”.

The Board discussed Drive access and lot size.

Mower said this project will clean up the area.

**PUBLIC  
COMMENT**

Dale Hall, 427 Maple, owner of the property thinks he went the extra mile to make sure the subdivision gets approved. A higher density would have been possible, but he wanted to keep in character with the area. He intends to make everything contiguous for the property. He thanked the Board for their work.

Dean David, 113 Sleepy Hollow Drive, owns the property North of the project. He said FEMA decides what the floodplain is and said they can't be going by the 1964 flood because the property was completely flooded. The property is currently zoned R2. He said they are creating another two lots with a potential of two more residences.

Gene Edminson, 511 Maple Drive, opposed the project. He said the road has a very dangerous corner. He said most of the lots on Maple Road are 1.4 acre lots with 1 to 2 residents.

Cherryl, 533 Mountain View Drive, said the previous speaker didn't realize they were changing the road. She said Hall has done a lot of improvements to the area and she foresees a really nice improvement to Evergreen.

**STAFF  
REBUTTAL**

Harris said the regulations require an appraisal no later than six months after the final plat approval. It is not the septic that drives lot size, it's the wells. The separation distance between the septic and well drives lot size. The floodplain maps discussed earlier were no changes to the old FIRM maps, they were just digitized. The only changes made were on Tumble Creek and Ashley Creek.

**APPLICANT  
REBUTTAL**

Wirtala said the person living adjacent to property had lived there during the 1964 flood and his property was not under water.

**BOARD  
DISCUSSION**

None.

**BOARD  
DISCUSSION**

Heim asked if lot two was in the floodplain.

Wirtala said just a small portion.

Harris said the subdivision regulations prohibit creating lots with unbuildable spaces. Anybody who builds in the floodplain has to get a permit.

The Board discussed the floodplain issue.

Broadie showed where the FEMA determinations were.

Wirtala said everything within 100 feet of the floodplain requires a LOMA.

Cross didn't understand the request for a variance because the County has standards.

**BOARD  
DISCUSSION**

The Board discussed whether or not a LOMA should be required.

The Board discussed putting this application on the next meeting agenda.

**MOTION TO  
TABLE**

Dziza made a motion seconded by Au Claire to table FPP 07-37 until the next Planning Board meeting.

**PRELIMINARY  
PLAT/  
HOMESTEAD  
CABINS  
(FPP-07-39)**

A request by The Homestead at Whitefish LLC., for Preliminary Plat approval of Homestead Cabins, a forty lot single-family residential subdivision on 108.221 acres. Lots in the subdivision are proposed to have public water and sewer systems. The property is located off Mountain Home Road.

**STAFF REPORT**

Andrew Hagemeyer reviewed Staff Report FPP 07-39 for the Board.

**BOARD  
QUESTIONS**

Cross asked why the vehicle trips generated was low.

Hagemeyer said he hadn't looked at it in months and so he doesn't remember. The cabins are supposed to be used for guests, not sold to people.

DeKort asked where the test holes were dug.

Hagemeyer showed on the map where the test holes were done.

Dziza asked how the overall density worked.

Hagemeyer said the subdivision is clustered and unzoned so the density can be mitigated by conditions.

DeKort asked where the irrigation fields would be.

Hagemeyer showed on the map where the fields were.

Hall asked about the presence of lynx in the area.

Hagemeyer said it was addressed in the environmental assessment.

Hall asked if they could put a condition stating no wood stoves.

Hagemeyer said it is beyond the scope of the platting process.

**APPLICANT  
PRESENTATION**

Eric Mulcahy, Sands Surveying, said they agree with the Staff Report. He said they can't rebuild the Forest Service Road. He said the homes are for sale and aren't just for guests. The applicant anticipates many of the owners of the previous subdivision will want to purchase the lots. The property is unzoned so it does not have a density requirement in the area. The average density is 2.7 acres a lot with 79% of the area as open space. There are 40 lots in the original Homestead plat with

very low density. The lodge is just a club house for the residents. He discussed the placement of the sewer facility and said they are proposing public sewer and water. He said the applicant will be using the same sewer system as Lakeside. The houses will be built with Class A building materials. Mulcahy reviewed how the sewer would be treated.

Paul Johansson, manager of the Homestead at Whitefish, said the areas were designated for future development. They started by building two owner's cabins by the largest cluster of cabins owned by the HOA. The homes are bought largely by second home owners. The process was started a year ago and they heard some neighbors were concerned so they had neighborhood meetings. Very few neighbors showed up to the meetings, but had concerns about the aquifer and water treatment. There is a letter from DEQ saying the treatment plant meets their specifications. He has worked with the Forest Service on the egress of the property and the fuels reduction plan. He said every home built will be sprinkled. The roads are 22 feet and are built to county regulations. The property is weed free.

Pitman asked about the water storage with the 35 gallon per minute pump. He asked if there was going to be dryscape.

Johansson said there will be no yards, just dryscape with 9 ½ miles of trails.

Dziza asked if Mountain Home Road was paved.

Johansson said from the entrance up to the current cabin is paved.

**PUBLIC  
COMMENT**

Fletcher Shiver, 125 Highland Meadows Rd, appreciated the opportunity to address the Board. He did not want the Staff Report accepted because of the findings of fact. He said Staff told him it was questionable whether or not it complies with the Growth Policy. The Board has a copy of his comment letter. He recommended denial, but if the Board approves the subdivision he wanted emergency egress roads. There are already three houses in the Homestead Cabins. It is his third time to comment on proposals for the Homestead. The project has gone from 32 homes to 85 single-family homes. He hoped this would be the end of it. He never objected to the Homestead developing to 1 home per 20 acres. He is concerned about water and sewage disposal. He said the homes are really 18 miles from town and

Staff was wrong about the well logs because it contradicts the environmental assessment. He said the area is not appropriate for clustering. He discussed the affects on wildlife.

Jack Byrd, 135 Highland Meadows Road, is the president of Highland Estates HOA. When Homestead was originally proposed, he came before the Planning Board and said it was a great thing because it was 32 lots on 20 acres, but that changed. Paul Johansson was not part of the original group of the Homestead. The proposal is totally out of line. 40 cabins on quarter acre tracts would not be appropriate for the area. Staff pointed out that Highland Meadows can be further subdivided, but the HOA voted that no further subdivision will be allowed. He has seen and photographed the tracks of numerous animals in the area. He said the environmental assessment he saw was totally inadequate. He asked the Board to recommend denial.

Dziza asked if he had any knowledge of the emergency road.

Byrd said he doesn't know what the county requirements are, but he was told there needs to be two emergency egresses in the subdivisions and one of them is impassable right now.

**STAFF  
REBUTTAL**

Hagemeier corrected the forest service number for the road that was incorrect in the Staff Report. He said when he evaluates subdivisions it's hard to look at Covenants because they can't regulate density and the County has no regulation over covenants. The home owners associations have the availability to change Covenants without any consulting of the County.

**APPLICANT  
REBUTTAL**

Johansson said there have been some references to the 32 lots in the first preliminary plat. They bought 1,265 acres, created 10 tracts that created 8, 20 acre lots.

Cross asked if the 2 cabins built were legal.

Johansson said yes, there were. There was never a 3<sup>rd</sup> cabin started and the cabins are owned by the home owners association.

Dziza asked if the maximum number of occupancy was 85.

Johnsons said 80, but they bought another 155 acres they don't know what they are going to do with.



Heim asked if he could build 20 common area lots.

Johansson didn't know.

Claire asked how the build out was.

Johnsons said 7 lots have been sold so far.

**MOTION TO  
ADOPT F.O.F.**

Dziza made a motion seconded by Hickey-AuClaire to adopt Staff Report FPP 07-39 as findings of fact.

The Board discussed the Forest Service road.

Mower asked if there was a legal definition of an emergency access.

Harris said emergency and secondary roads are the same. He said there is a definition. He said none of the Forest Service roads are general public roads.

Jack Byrd discussed the forest service permit.

The Board discussed what was required for the emergency access and the density of The Homestead.

**MOTION TO  
AMEND F.O.F. 7**

Dziza made a motion seconded by DeKort to amend finding of fact 7 to state: *The effects on health and safety are not acceptable because the secondary access on Forest Rd. 11204D is not up to standards for a secondary access as defined in the Flathead County Minimum Standards for Design and Construction. This could be addressed with the imposition of unique condition 20.*

**ROLL CALL TO  
AMEND F.O.F. 7**

On a roll call vote the motion passed unanimously.

**MOTION TO  
ADD F.O.F. 21**

Dziza made a motion seconded by Pitman to add finding of fact 21 to state: *The subdivision does not provide a permanent secondary means of egress.*

**ROLL CALL TO  
ADD F.O.F. 21**

On a roll call vote the motion passed unanimously.

**MOTION TO  
ADD F.O.F. 22**

Mower made a motion seconded by DeKort to add finding of fact 22 to state: *The proposed subdivision consisting of 2.7 acres density is not consistent with the surrounding lots of*

*approximately 20 acres.*

**ROLL CALL TO  
ADD F.O.F. 22**

On a roll call vote the motion passed unanimously.

**MOTION TO  
AMEND F.O.F.  
11**

DeKort made a motion seconded by Hall to amend finding of fact 11 to state: The impacts to wildlife and wildlife habitat are acceptable because the applicant is using a clustering technique that maximizes open space to mitigate impacts to wildlife and wildlife habitat, the applicant is proposing to use bear proof garbage containers, and Staff has not received agency comments indicating there will be a negative impact to wildlife. *Negative impacts from the public were received at the public hearing regarding wildlife and wildlife habitat.* Possible impacts could be mitigated with the imposition of unique conditions 24, 25, 26, and 31.

**ROLL CALL TO  
AMEND F.O.F.  
11**

On a roll call vote the motion passed unanimously.

**ROLL CALL TO  
ADOPT F.O.F.**

On a roll call vote the motion passed unanimously.

**MOTION TO  
RECOMMEND  
APPROVAL**

Hickey-AuClaire made a motion seconded by Hall to recommend approval of Staff Report FPP 07-39 to the County Commissioners.

**ROLL CALL TO  
RECOMMEND  
APPROVAL**

On a roll call vote the motion failed 2-6 with Hall, Cross, Mower, Pitman, DeKort, and Dziza dissenting.

**MOTION TO  
RECOMMEND  
DENIAL**

Hall made a motion seconded by Mower to recommend denial of Staff Report FPP 07-39 to the County Commissioners.

**ROLL CALL TO  
RECOMMEND  
DENIAL**

On a roll call vote the motion passed 6-2 with Hickey-AuClaire and Heim dissenting.

**OLB BUSINESS**

The Board discussed having a quorum for the North Shore Ranch meeting, the next subdivision regulation meeting, and their upcoming retreat.

**NEW BUSINESS** Harris handed out some documents

Dziza said he wanted to end all meetings at 11:00 p.m.

Harris said that can be an agenda item for the next meeting.

**ADJOURNMENT** The meeting was adjourned at approximately 12:10 p.m. on a motion by DeKort seconded by Dziza. The next meeting will be held at 6:00 p.m. on March 19, 2008.

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Gordon Cross, President

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Kayla Kile, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 4/9/08